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EXAMINER

TUCKER, WESLEY J

ART UNIT PAPER NUMBER

2623

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/749,165	Applicant(s) SOBOL, ROBERT E.	
	Examiner Wes Tucker	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Jun 2nd 2005 has been entered.

Response to Arguments and Amendments

1. Applicant's response to Advisory Office Action, filed April 22nd 2005, has been entered and made of record.
2. Applicant has amended claims 1-6, 9-15, 18 and 21. Claims 19 and 22 have been canceled. Claims 31 and 32 have been added. Claims 1-18, 20-21 and 23-32 are pending.
3. Applicant's arguments have been fully considered and are not persuasive for at least the following reasons:
4. Applicants have made the same argument that has been presented and refuted several times (see previous office actions and amendments). For the sake of brevity Examiner will simply state that all of the previous rejections still apply. However a new rejection has been provided with an additional secondary reference included to teach

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that computer automation in performing image enhancement versus user intervention is an obvious adjustment to the performance of basic computer processing. The fact is that once a user tells a computer to perform an operation once, it can be performed again without that user intervention simply by repeating the operation. That is of course the beauty of computers.

5. The Applicants argument seems to hinge on the repeatedly emphasized phrase in the independent claims of "wherein said image enhancer is configured to initiate, without user intervention, manipulation of said portion for enhancing said appearance in response to identification of said portion by said image enhancer."

6. The Applicant argues that Hillebrand suggests and even teaches away from the present invention because Hillebrand teaches that "the operator enters a magnitude for defect improvement via the input device." Applicant is reminded that the present invention describes in the specification on page 14, lines 15-22 where the "user may control the type of image enhancement." Hillebrand's "magnitude for defect improvement" is interpreted as the type of image enhancement. The suggestion inferred by the applicant is not considered grounds for the reference to teach away from the invention. Computer programs by their very nature allow for user input at any number of steps along the way to perform the desired operation. Further dependent claim 2 claims an input device for receiving input and wherein facial blemish is selected based on said input. To suggest that Hillebrand teaches away from the application is to suggest that the application teaches away from the application.

7. Applicant argues further (p.13 of remarks) citing the passage in Hillebrand at column 6, lines 15-16, where it is described that the steps are performed by the controller. Applicant cites step 612 of Fig. 6 where "operator selects several landmarks on the image." Applicant states "Applicant fails to see how such a step can be initiated or performed without user intervention." Examiner would like to point out that only the "said image enhancer is configured to initiate without user intervention, manipulation of said portion..." in claim 1. As far as the operator selecting several landmarks in Hillebrand this sounds remarkably similar to the limitation claimed in claim 2 of "wherein said system further comprises an input device configured to receive an input and wherein said image enhancer is further configured to select said facial blemish based on said input." Examiner fails to see how such a step as claim 2 can be initiated or performed without user intervention.

8. Further with regard to computer automated or user initiated operations it is a fact that no computer program is fully automatic until a user programs it to be automatic. So a computer process that initiates, without user intervention, some process is not enough to make novel an automatic image enhancement system.

9. Applicant argues that U.S. Patent 6,571,003 to Hillebrand does not disclose the claimed feature of "wherein said image enhancer is configured to initiate, without user intervention, manipulation of said portion for enhancing said appearance in response to identification of said portion by said image enhancer." Examiner disagrees and points out that Hillebrand discloses a totally automatic mode for operation as well as a user-

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directed mode (column 6, lines 15-16, column 7, lines 17-21 and 65-66, column 8, lines 33-36, 46-51 and 63-65, column 9, lines 5-7, 15-17 and 26-28, column 10, lines 51-52, column 12, lines 2-3 and 10-14). Hillebrand consistently states, "in one embodiment the steps are performed by the controller 200." This declaration is interpreted as the steps in the process take place entirely without user input based on data already programmed into the image processor or controller. Although Hillebrand allows for user input at nearly every step of the process, it is also indicated clearly that in one embodiment, the steps are performed by the controller without user input. Rejection is maintained and the action is made final.

Teaches Away

It is also argued that Hillebrand teaches away from the claimed invention in claims 28-30 because Hillebrand appears to operate on a close up image of a single face and that this teaches away from using the enhancement device on multiple facial portions detected in an image. Examiner submits that Kinjo detects multiple facial image candidates and that once a face or an area is detected and selected within an image that any processing taught by Hillebrand on such a section could be obviously applied to another such detected section. Anyone of ordinary skill in the art of image processing would know to process multiple sections within an image to be processed in a similar manner. As far as the applicant's arguments as to the camera positioning and lighting for a single face. Examiner also submits that lighting in a single photograph would be expected to be similar. If the lighting is similar enough to detect multiple

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faces, it is similar enough to enhance multiple faces accordingly. Further a 102 rejection of claims 28-30 is presented in view of a red-eye reduction system U.S. Patent 6,292,574 to Schidkraut et al.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 28-30 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,292,574 to Schildkraut et al.

With regard to claim 28, Schildkraut discloses an automatic image enhancement system, comprising:

Memory for storing digital data that defines a graphical image, said graphical image containing a plurality of faces (Fig. 1 and column 1, lines 37-44);

A face detector configured to detect each of said faces (column 1, lines 43-47 and column 4, lines 14-24); and

An image enhancer configured to analyze said faces, said image enhancer further configured to automatically detect and enhance at least one respective facial feature in each of said faces (column 1, lines 43-50).

With regard to claim 29 the discussion of claim 28 applies.

With regard to claim 30, Schidkraut disclose the method of claim 29, wherein said enhancing is initiated without user intervention based on said analyzing (Fig. 2). The method is performed entirely by the computer processor automatically.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-12, and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of U.S. Patent 6,445,819 to Kinjo and U.S. Patent 6,571,003 to Hillebrand et al. and further in view of U.S. Patent 6,160,923 to Lawton et al.

11. With regard to claim 1, Kinjo discloses an image enhancement system, comprising memory for storing digital data that defines a graphical image (Fig. 1, element 48) and a face detector configured to analyze said digital data and to automatically identify facial data within said digital data stored in said memory (Fig. 2, element 100).

Kinjo discloses an image enhancer, but does not disclose automatically identifying a facial blemish defined by a portion of said facial data based on a proximity of said facial blemish relative to said facial feature within said graphical image said image enhancer further configured to automatically compensate for said facial blemish by automatically manipulating said portion such that an appearance of said facial feature is enhanced within said graphical image, ***wherein said image enhancer is configured to initiate, without user intervention, manipulation of said portion for enhancing said appearance in response to identification of said facial blemish by said image enhancer.***

Hillebrand discloses an image enhancer configured to automatically detect and locate defect areas in a face image and to create an improved or worsened area for each of the defect areas (column 2, lines 15-30). Once a face has been detected in a digital image, several different processes are used to change portions of that image in order to enhance the appearance of that image. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to employ Hillebrand's facial enhancement system to modify all or part of the facial image detected in the face detection of Kinjo in order to enhance the appearance of that image.

With regard to the argued part of the claim in italics above, Hillebrand also discloses wherein the image enhancement occurs without any user intervention (column 6, lines 15-16, column 7, lines 17-21 and 65-66, column 8, lines 33-36, 46-51 and 63-65, column 9, lines 5-7, 15-17 and 26-28, column 10, lines 51-52, column 12, lines 2-3 and 10-14). Hillebrand consistently states, "in one embodiment the steps are performed by the controller 200." This declaration is interpreted as the steps in the process take place entirely without user input based on data already programmed into the image processor or controller. Although Hillebrand allows for user input at nearly every step of the process, it is also indicated clearly that in one embodiment, the steps are performed by the controller.

For the sake of argument, if it cannot be agreed as to whether or not Hillebrand allows for user intervention before the manipulation of said portion for enhancing said appearance in response to identification of said facial blemish by said image enhancer, Examiner points to the reference of U.S. Patent 6,160,923 to Lawton et al. Lawton discloses a device to remove spots or anomalies such as facial blemishes (column 3, lines 3-6) wherein once the area of the blemish is identified, the enhancement of the area of the blemish is performed automatically (column 3, lines 13-17) without user intervention. Lawton further teaches that attributes of identified blemishes to be removed are gathered and using those attributes such imperfections can be automatically removed throughout the image without user intervention (column 4, lines 18-25). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to enable automatic image enhancement without user intervention

once a blemish has been identified as taught by Lawton to enable automated processing of images in conjunction with the controller operated method of Hillebrand already disclosed.

12. With regard to claim 2, Kinjo and Hillebrand disclose input devices configured to receive an input. Kinjo discloses a scanner (Fig.1, element 12). Hillebrand discloses user input obtained from a user interface on what operations to perform and how to determine facial portions to analyze and enhance (column 5, lines 30-42 and column 6, lines 29-42). In the combination of Kinjo and Hillebrand, Hillebrand's image enhancer would operate in accordance with the input configurations to perform operations on the image input received by Kinjo's input device. The portion of the image to be modified or the facial feature selected is based on these inputs.

13. With regard to claim 3, Kinjo discloses said image enhancer to process color correction, but does not specifically refer to color blending. Hillebrand discloses said image enhancer to manipulate portions of an image by blending color values associated with the defective portion with the color of the skin surrounding the defective portion (column 2, lines 25-30 and column 12, lines 13-18).

14. With regard to claim 5, Kinjo discloses said image enhancer, wherein manipulating said portion, sharpens said appearance of said facial feature (column 10, lines 65-67).

15. With regard to claim 6, Kinjo discloses said image enhancer, wherein manipulating said portion, changes a color of said facial feature (column 10, lines 60-65).

16. With regard to claim 7, Kinjo discloses said system including an image capturing device configured to receive an image of a scene and to produce said digital data based on said image received by said image capturing device (Fig.1, element 12). In this embodiment the image capture device is a scanner.

17. With regard to claim 8, Kinjo discloses said image capturing device including a lens for receiving said image and an image converter for producing said digital data based on said image (Fig. 1, elements 12, 28, and 32). The scanner contains a CCD with lens (28) and analog to digital converter (32).

18. With regard to claim 9, Kinjo discloses an automatic image enhancement system, comprising means for storing digital data that defines a graphical image (Fig.1, element 48) and face detecting means for analyzing said digital data and for automatically

identifying facial data within said digital data stored in said storing means (Fig.2, element 100).

Kinjo discloses an image enhancing means, but does not disclose means for searching said identified facial data for a particular facial feature and for automatically identifying a facial blemish defined by a portion of said facial data based on a proximity of said facial blemish relative to said facial feature within said graphical image said image enhancer further configured to automatically compensate for said facial blemish by automatically manipulating said portion such that an appearance of said facial feature is enhanced within said graphical image, ***wherein said image enhancer is configured to initiate, without user intervention, manipulation of said portion for enhancing said appearance in response to identification of said facial blemish by said image enhancer.***

Hillebrand discloses an image enhancer configured to automatically detect and locate defect areas in a face image and to create an improved or worsened area for each of the defect areas (column 2, lines 15-30). Once a face has been detected in a digital image, several different processes are used to change portions of that image in order to enhance the appearance of that image. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to employ Hillebrand's facial enhancement system to modify all or part of the facial image detected in the face detection of Kinjo in order to enhance the appearance of that image.

With regard to the amended part of the claim underlined above, Hillebrand also discloses wherein the image enhancement occurs without any user intervention (column

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6, lines 15-16, column 7, lines 17-21 and 65-66, column 8, lines 33-36, 46-51 and 63-65, column 9, lines 5-7, 15-17 and 26-28, column 10, lines 51-52, column 12, lines 2-3 and 10-14). Hillebrand consistently states, "in one embodiment the steps are performed by the controller 200." This declaration is interpreted as the steps in the process take place entirely without user input based on data already programmed into the image processor or controller. Although Hillebrand allows for user input at nearly every step of the process, it is also indicated clearly that in one embodiment, the steps are performed by the controller.

For the sake of argument, if it cannot be agreed as to whether or not Hillebrand allows for user intervention before the manipulation of said portion for enhancing said appearance in response to identification of said facial blemish by said image enhancer, Examiner points to the reference of U.S. Patent 6,160,923 to Lawton et al. Lawton discloses a device to remove spots or anomalies such as facial blemishes (column 3, lines 3-6) wherein once the area of the blemish is identified, the enhancement of the area of the blemish is performed automatically (column 3, lines 13-17) without user intervention. Lawton further teaches that attributes of identified blemishes to be removed are gathered and using those attributes such imperfections can be automatically removed throughout the image without user intervention (column 4, lines 18-25). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to enable automatic image enhancement without user intervention once a blemish has been identified as taught by Lawton to enable automated

processing of images in conjunction with the controller operated method of Hillebrand already disclosed.

19. With regard to claim 10, Kinjo discloses a method for enhancing graphical images, comprising:

receiving digital data defining a graphical image (Fig. 1, elements 32, 36 and 14);
automatically detecting facial data within said digital data (Fig. 2, element 100).

Kinjo does not explicitly disclose searching said facial data for data that defines a particular facial feature and automatically identifying, a facial blemish defined by a set of said digital data based on a proximity of said facial blemish relative to said particular facial feature within said graphical image; and automatically compensating for said facial blemish in response to said identifying, without user intervention, said compensating comprising manipulating said set of digital data.

Hillebrand discloses an image enhancer configured to automatically detect and locate defect areas in a face image and to create an improved or worsened area for each of the defect areas (column 2, lines 15-30). Once a face has been detected in a digital image, several different processes are used to change portions of that image in order to enhance the appearance of that image. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to employ Hillebrand's facial enhancement system to modify all or part of the facial image detected in the face detection of Kinjo in order to enhance the appearance of that image.

With regard to the amended part of the claim underlined above, Hillebrand also discloses wherein the image enhancement occurs without any user intervention (column 6, lines 15-16, column 7, lines 17-21 and 65-66, column 8, lines 33-36, 46-51 and 63-65, column 9, lines 5-7, 15-17 and 26-28, column 10, lines 51-52, column 12, lines 2-3 and 10-14). Hillebrand consistently states, "in one embodiment the steps are performed by the controller 200." This declaration is interpreted as the steps in the process take place entirely without user input based on data already programmed into the image processor or controller. Although Hillebrand allows for user input at nearly every step of the process, it is also indicated clearly that in one embodiment, the steps are performed by the controller.

For the sake of argument, if it cannot be agreed as to whether or not Hillebrand allows for user intervention before the manipulation of said portion for enhancing said appearance in response to identification of said facial blemish by said image enhancer, Examiner points to the reference of U.S. Patent 6,160,923 to Lawton et al. Lawton discloses a device to remove spots or anomalies such as facial blemishes (column 3, lines 3-6) wherein once the area of the blemish is identified, the enhancement of the area of the blemish is performed automatically (column 3, lines 13-17) without user intervention. Lawton further teaches that attributes of identified blemishes to be removed are gathered and using those attributes such imperfections can be automatically removed throughout the image without user intervention (column 4, lines 18-25). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to enable automatic image enhancement without user intervention

once a blemish has been identified as taught by Lawton to enable automated processing of images in conjunction with the controller operated method of Hillebrand already disclosed.

20. With regard to Claims 11-17, they repeat the elements in claims 2-8 with reference to a method. With regard to depending claims 11-17, refer to the discussion of claims 2-8 respectively. Claims 11-17 are amended only by eliminating the word "step" in each claim.

21. With regard to claim 18, the combination of Kinjo and Hillebrand applies as discussed in regard to claim 9. Claim 9 cites all of the elements of claim 18, with the exception of explicitly naming a facial skin blemish. Hillebrand discloses this feature (column 2, lines 17-22 and column 6, lines 1-5). With regard to the new limitation wherein said image enhancer is further configured to automatically manipulate, upon locating said portion for enhancing an appearance of said skin blemish within said graphical image, Hillebrand also discloses wherein the image enhancement occurs without any user intervention (column 6, lines 15-16, column 7, lines 17-21 and 65-66, column 8, lines 33-36, 46-51 and 63-65, column 9, lines 5-7, 15-17 and 26-28, column 10, lines 51-52, column 12, lines 2-3 and 10-14). Hillebrand consistently states, "in one embodiment the steps are performed by the controller 200." This declaration is interpreted as the steps in the process take place entirely without user input based on data already programmed into the image processor or controller. Although Hillebrand

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allows for user input at nearly every step of the process, it is also indicated clearly that in one embodiment, the steps are performed by the controller.

22. With regard to claim 19, Hillebrand discloses the image enhancer configured to locate at least one additional facial feature and locate said portion of said facial data defining said skin blemish by determining the likely proximity of said skin blemish to said located at least one additional facial feature. Hillebrand discloses several methods of sub-image determination (column 7, lines 16-40 and 60-65 and column 8, lines 5-10). Hillebrand discloses locating sub-images such as an under eye border and then discloses enhancing the image portion according to the defect type in that area such as wrinkles blemishes red spots etc.

23. With regard to claim 20, Hillebrand discloses the said blemish to be a wrinkle (column 8, lines 5-8).

24. With regard to claim 21, the discussions of claims 1, 9 and 18 apply. The method is considered to be included in the system.

25. With regard to claim 22, the discussion of claim 19 applies.

26. With regard to claim 23, the combination of Kinjo and Hillebrand discloses the system of claim 1, and Kinjo discloses detecting multiple face candidate regions (Fig. 2,

element 102 and Fig. 3) and in the combination of Kinjo and Hillebrand, image enhancement would take place on any number of faces once they are detected.

27. With regard to claim 24, the discussion of claim 23 applies.

28. With regard to claim 25, the discussion of claim 23 applies.

29. With regard to claim 26, the discussion of claim 23 applies.

30. With regard to claim 27, the discussion of claim 1 applies. Hillebrand discloses wherein the image enhancement occurs without any user intervention (column 6, lines 15, 16, column 7, lines 17-21 and 65-66, column 8, lines 33-36, 46-51 and 63-65, column 9, lines 5-7, 15-17 and 26-28, column 10, lines 51-52, column 12, lines 2-3 and 10-14). Hillebrand consistently states, "in one embodiment the steps are performed by the controller 200." This declaration is interpreted as the steps in the process take place entirely without user input based on data already programmed into the image processor or controller. Although Hillebrand allows for user input at nearly every step of the process, it is also indicated clearly that in one embodiment, the steps are performed by the controller.

31. With regard to claim 28 Kinjo discloses an automatic image enhancement system, comprising memory (Fig. 1, element 48) for storing digital data that defines a

graphical image, said graphical image containing a plurality of faces (Fig. 2, elements 100 and 102). Kinjo disclose multiple face candidate regions.

Kinjo also discloses a face detector configured to detect each of said faces (Fig. 2, element 100).

Kinjo does not disclose an image enhancer configured to analyze said faces, said image enhancer further configured to automatically detect and enhance at least one respective facial feature in each of said faces.

Hillebrand discloses an image enhancer configured to automatically detect and locate defect areas in a face image and to create an improved or worsened area for each of the defect areas (column 2, lines 15-30). Once a face has been detected in a digital image, several different processes are used to change portions of that image in order to enhance the appearance of that image. This of course applies to multiple detected facial images. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to employ Hillebrand's facial enhancement system to modify all or part of the facial image detected in the face detection of Kinjo in order to enhance the appearance of that image.

Hillebrand also discloses wherein the image enhancement occurs without any user intervention (column 6, lines 15-16, column 7, lines 17-21 and 65-66, column 8, lines 33-36, 46-51 and 63-65, column 9, lines 5-7, 15-17 and 26-28, column 10, lines 51-52, column 12, lines 2-3 and 10-14). Hillebrand consistently states, "in one embodiment the steps are performed by the controller 200." This declaration is interpreted as the steps in the process take place entirely without user input based on

data already programmed into the image processor or controller. Although Hillebrand allows for user input at nearly every step of the process, it is also indicated clearly that in one embodiment, the steps are performed by the controller.

32. With regard to claim 29, the discussion of claim 28 applies. The method is disclosed in the use of the system.

33. Claims 4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Kinjo and Hillebrand in view of U.S. Patent 5,835,616 to Lobo.

34. With regard to claim 4, Kinjo discloses said image enhancer, wherein manipulating said portion, applies various image-processing techniques. Neither Kinjo nor Hillebrand expressly disclose blurring the appearance of the facial feature. Lobo discloses enhancing a facial image by blurring the image (Abstract). Lobo teaches that the blurring filter is used to better set forth the facial features of the image (Abstract). Blurring is a well-known image enhancing technique. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to add blurring to the list of available facial feature enhancing techniques listed by Kinjo in order to better set forth the facial features of the image.

35. With regard to claim 13, the discussion of claim 4 applies. The method used in the system is considered to be included in the system.

New Claims

36. With regard to new claim 31, Hillebrand discloses wherein said facial blemish is a wrinkle and wherein said facial feature is an eye within said graphical image (see abstract and column 6, lines 1-8). Hillebrand discloses the corner of an eye to be a landmark and a wrinkle to be a type of defect.

37. With regard to claim 32, the discussion of claim 31 applies.

Conclusion

38. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wes Tucker whose telephone number is 571-272-7427. The examiner can normally be reached on 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jingge Wu can be reached on 571-272-7429. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wes Tucker

8-4-05


**VIKRAM BALI
PRIMARY EXAMINER**